

**JOINT STATEMENT OF  
COMMISSIONERS MICHAEL J. COPPS AND JONATHAN S. ADELSTEIN,  
CONCURRING**

*Re: Counterpoint Communications, Inc. (Transferor) and Tribune Television Company (Transferee), Request for Extension of Waiver of Section 73.3555(d) of the Commission's Rules for Station WTXV(TV), Waterbury, CT*

We have been deeply troubled by the Commission's long *inaction* on this and other overdue waivers of our media ownership rules. In this case, we are also troubled by the Bureau's *action* in sending a letter to Tribune stating that the company was in full compliance with our rules. Notwithstanding these disagreements with the Commission's failures in this case, we reluctantly concur in the overall decision. We concur because the Commission at long last conducts the public interest analysis in this case that it should have conducted years ago. We concur because the Commission does a better job here of fleshing out the standard it will apply as it processes waiver requests. We concur because the Commission states that, henceforth, it will address waivers as they come due and not permit them to remain in force through Commission inaction. We would have preferred the Commission to indicate a time limitation for our processing of such requests, but today's item at least improves upon the current process. And we concur because the Commission makes clear that it expects to see clear evidence of serious and sustained efforts to come into compliance with our rules before it will consider granting any extension.

When the Commission approves a transaction that does not fully comply with its rules, the Commission has often granted a temporary waiver to allow the acquiring company to come into compliance with the media ownership limits. Yet companies routinely file requests to extend waivers and the Commission too often fails to either address those requests or to enforce its rules once a waiver has lapsed. This has been an unconscionable abdication of responsibility that does nothing to provide predictability and certainty, leave alone to safeguard the public interest. The Commission has allowed companies to avoid compliance with our rules and to hold licenses—sometimes for years—in the hope that our media concentration protections will one day be loosened and these waived deals can then be made permanent. In effect, the Commission's inaction has allowed companies to push the consolidation envelope ever further.

How much better it would be if the Commission would address pending waiver requests in a timely manner, evaluate whether such waivers indeed serve the public interest, and then enforce its ownership rules. In the present case, the Commission finally approaches meeting this responsibility, albeit two and a half years after the waiver technically expired.

This case presents a tough decision for us. We disagree with the process followed – both the Commission's protracted inaction and the Bureau's intervening action in sending its letter to Tribune. Nevertheless, we believe we must look at the specific facts of this case and determine if the public interest is served by granting a further extension.

There are clearly times when the public interest is served by granting a waiver or an extension. But we believe we must conduct a rigorous public interest analysis before granting such actions. In this case, the Commission not only finds public interest benefits, but also examines and evaluates whether Tribune has made best efforts to divest WTXH either alone or in combination with WTIC. Given Tribune's documented efforts, as well as ***the significant possibility that either the station might go dark or service to the community would be reduced*** without additional time for Tribune to divest, we will reluctantly concur. We are in full support, however, of the Commission's decision to deny a permanent waiver in this matter. Tribune has simply not made the case for a permanent waiver. We would also point out that through this decision, the Commission implicitly recognizes that a permanent waiver for the Hartford matter has the clear potential to undermine localism, competition, and diversity.

Although the Commission finds that the public interest would be served by granting an extension in this case, other waivers of our ownership limits have also lapsed. These other cases may not present affirmative public interest benefits justifying an extension of a waiver or evidence that the company has made efforts to come into compliance with our rules. The Commission commits in this Order not to let waiver petitions languish and, in effect, be granted through inaction. Companies that seek waiver extensions are now on notice that they must demonstrate their efforts to come into compliance with our rules and that any waiver extension will serve the public interest. We expect the Commission to carry through with its commitments, and we also expect companies to comply with the terms of their waivers.